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International Covenant on Civil and Political Rights

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Human Rights Committee

Eighty-third session

Summary record of the 2258th meeting
Held at Headquarters, New York, on Wednesday, 16 March 2005, at 11 a.m.

Chairperson: Ms. Chanet

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Fourth periodic report of Iceland

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05-27201 (E)

The meeting was called to order at 11.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations

Fourth periodic report of Iceland
(CCPR/C/ISL/2004/4, CCPR/C/83/L/ISL)

1. *At the invitation of the Chairperson, the delegation of Iceland took places at the Committee table.*

2. **Mr. Hannesson** (Iceland), introducing his country's fourth periodic report, affirmed Iceland's continuing commitment to the Covenant, as reflected in the major changes that had been introduced into the country's Constitution and its judicial practice over a period of some five years following submission of its third periodic report. Since that time implementation of the Covenant's provisions had steadily improved in Iceland, and he looked forward to a fruitful exchange with the Committee with a view to yet further improvement.

3. **Ms. Árnadóttir** (Iceland) stressed the continuing progress achieved in implementing the Convention in her country at the judicial level, and highlighted the notable increase in public information and awareness regarding its provisions. A number of new legislative provisions had been introduced in fields within the scope of the Covenant and Iceland had acceded to new international human rights instruments, listed in paragraph 9 of the report. She noted in particular that measures had been taken to offer better support to the victims of violence against women and that, in the light of a legislative amendment, her Government had withdrawn its reservation concerning the status of children born out of wedlock.

4. **The Chairperson** invited the delegation to address questions 1 to 9 on the list of issues (CCPR/C/83/L/ISL).

Implementation of the Covenant rights (article 2 of the Covenant)

5. **Ms. Ragnarsdóttir** (Iceland), in response to question 1, said that six Supreme Court judgements that had taken into account the provisions of the Covenant were listed in detail in the printed reply prepared by the Icelandic authorities. While district courts frequently referred explicitly to the Covenant, the Supreme Court tended in its conclusions to do so implicitly, but no less cogently.

6. On question 2, she drew the Committee's attention to Public Announcement No. 867/2001, which prohibited the provision of financial support in any form or guise for terrorist activity and required all providers of financial services to report any transaction that might be linked to terrorists. In addition, the General Penal Code of Iceland had been amended to criminalize terrorism, defined therein in terms not only of the nature, circumstances and effects of the acts committed but also of their potential to harm a State or international organization. So far no cases had arisen under the new provisions.

Equality of men and women and prohibition of discrimination (articles 3 and 26 of the Covenant)

7. **Ms. Ragnarsdóttir** (Iceland), responding to question 3, said that Iceland's Gender Equality Act was aimed at redressing discrepancies between the wages of men and women. Action was continuing to be taken to reduce further the remaining gender pay gap in both the private and the public sectors, particularly through a public awareness campaign and a complaints procedure under the Gender Equality Complaints Committee. In addition, the Maternity/Paternity Leave and Parental Leave Act of 2000 was designed to lead to a more equal situation in respect of gender-related wage discrimination in the country.

8. **Ms. Árnadóttir**, addressing the question of domestic violence raised in question 4, said that support was offered to victims by the Emergency Reception facility and referred the Committee to the details on admissions provided in table 1 of the written replies. She cited cases where restraining orders had been issued, noting the difficulties encountered in practice, due essentially to the length of the procedure for imposing such orders.

9. **Ms. Ragnarsdóttir** (Iceland), in reply to question 5, said that the incidence of rape in Iceland was not as high as alleged and that institutional and medical arrangements were in place for the support of its victims; good cooperation existed between the police and rape crisis centres. Moreover, in accordance with the 1991 Code of Criminal Procedure, all reported cases were referred to the Director of Public

Prosecutions. Table 3 in the written replies provided full information in that regard.

Prohibition of slavery or forced or compulsory labour (article 8 of the Covenant)

10. **Ms. Árnadóttir** (Iceland), replying to question 6, said that it was difficult to press charges for trafficking in persons, despite comprehensive border controls, as victims often travelled unaccompanied and were unwilling to talk to the authorities. Two out of the three cases of suspected trafficking prosecuted in 2002 and 2003 had resulted in conviction and jail sentences.

11. In 2003 Iceland had launched a national campaign against trafficking in women, aimed at changing the perception of women as commodities and at disseminating information on trafficking, by various means including lectures, publications and awareness-raising regarding the legal rights of foreign women. Iceland had joined in a ministerial statement requiring countries of the region to give political priority to the fight against trafficking in women and to implement, no later than 2005, national action plans against trafficking in human beings.

12. Iceland participated in the Nordic-Baltic Campaign to Combat Trafficking in Women, launched in 2002 by the Nordic countries and Baltic States, and in the Nordic-Baltic Task Force Against Trafficking in Women, a coordination mechanism to enhance the treatment of the issue at the political level in all participating countries.

Right to freedom from torture and conditions of treatment of detained persons (articles 7, 10 and 14 of the Covenant)

13. **Ms. Árnadóttir** (Iceland), replying to question 7, said that Icelandic legislation did not expressly prohibit the admission into evidence of a statement obtained by torture; evaluation of evidence was left to judges. However, article 68 of the Constitution prohibited torture. Under article 70, an accused was presumed innocent until proven guilty, and the burden of proof rested with the prosecution. The Government held that a confession obtained by torture did not provide legal grounds for a conviction. In court, an accused could withdraw a confession obtained by the police during interrogation. Allegations that it had been obtained under torture would be investigated. Confirmation of the allegations would lead to criminal prosecution of the policemen in question and the confession would not be used as a basis for the imposition of criminal sanctions. The Code of Criminal Procedure provided for the resumption of legal proceedings where it could be assumed that any official involved in the investigation or the trial had acted improperly in order to secure a conviction.

14. Replying to question 8, she said that solitary confinement was used only in cases of severe violation of prison regulations. There had been only 29 cases in the last three years; the maximum period of confinement had been 12 days. Before being so sentenced, a prisoner was referred to a psychologist and a doctor. If determined fit for such a sanction, the prisoner would be regularly monitored and, if necessary, treated for mental and physical problems arising during the period of confinement.

15. Replying to question 9, she said that in Iceland a child could be tried and sentenced at 15 years of age. Offenders between the ages of 15 and 18 years had the right to serve their sentence in a facility run by the Government's child protection agency. During the past five years, there had been on average one juvenile offender per year in the prison system. They were held outside the main national prison, and thus kept well away from adult offenders. Being few in number, they could be easily monitored by prison staff.

16. **The Chairperson** thanked the delegation of Iceland for its replies and invited Committee members to ask any questions they might have concerning questions 1 to 9.

17. **Mr. Lallah**, referring to the delegation's response to question 1, noted that although few cases had been mentioned, he was impressed by the way in which the Covenant had been used to guide the judiciary, and hoped to see more such cases in the future. He asked if the plaintiffs had received any assistance from non-governmental organizations (NGOs). He was concerned about new legislation which required that NGOs, formerly funded via budgetary allocations granted by Parliament, must henceforth seek funding from the executive branch of the Government, submitting applications for the funds. The Icelandic Human Rights Centre, which had done very good work in the past, would thus be funded by the Ministry of Justice. In addition, its budget had been reduced. The potential conflict of interest could put NGO funding at risk. If State policy truly aimed to encourage NGOs, he

wanted to know why the control of their funding had been transferred from Parliament to the executive branch of Government.

18. Referring to question 2, he asked for clarification about the judicial nature of the so-called Public Announcement enacting counter-terrorism measures pursuant to Security Council resolution 1373 (2001), including the Announcement's basis in law and its issuing authority. The Announcement had been issued scarcely two months after the adoption of the resolution, and he wondered whether there had been much public debate on its substance and on the amendments to the General Penal Code when they had been introduced. Also, he wanted to know whether the Government had taken the Covenant into account when considering the Announcement.

19. The definition of terrorism was as elusive as that of sin or anti-social behaviour. It was therefore always important to look into the adverse effects on human rights when confronting deprivation of liberty, suspicion and executive action. He sought confirmation that powers of detention and extradition had not been transferred from the judicial to the executive branch of Government. He wanted to know whether Iceland would allow extradition to countries that imposed the death penalty, practised torture and/or detained suspects without trial. While the delegation had stated that, in Iceland, there had been no prosecutions for measures related to terrorism, he wanted to know if any person or persons had been transferred to other countries for that purpose.

20. The offences cited as being punishable, under article 100 (a) of the General Penal Code, by a maximum penalty of life in prison, e.g. causing considerable fear among the public, were vague and open to subjective interpretation. He asked for clarification of "illegally forc[ing] Icelandic ... [or] foreign authorities or international organizations to take action or to remain passive" and wondered whether peaceful demonstrations that degenerated in the same manner as those surrounding the World Trade Organization meeting in 1999 would fall within that definition.

21. Causing a "threat to traffic safety, ... to public transport or causing considerable damage to property", one of the acts deemed to be a necessary component of the aforementioned offences under article 100 (a), could be subjectively construed. He was concerned that it might be invoked to restrict the normal exercise of rights in a democratic society, such as peaceful protests. States were required to protect demonstrators, yet the amendments to the Penal Code were so broad as to jeopardize the whole concept of public demonstration. He wanted to know whether the law could become a serious threat to those who already feared to exercise their rights in a democratic society.

22. **Sir Nigel Rodley** said he had not heard a better argument for Iceland's system for juveniles than that there had been an average of only one juvenile in the prison system in the past year. It was therefore very difficult to recommend that Iceland should review its reservation to article 10.

23. It had been the Committee's long-held practice to interpret article 7 of the Covenant as requiring the inadmissibility in judicial proceedings of statements extracted by means of torture or cruel, inhuman or degrading treatment or punishment. It was clear from Iceland's response that, whatever the nuances, that was not currently the case in Iceland. It had also been indicated that it was possible to ensure that nobody was convicted solely on the basis of a confession wrongfully extracted, but that was rarely the case, which did not mean, however, that that could not be an important part of a case, particularly if corroborative information was elicited. Furthermore, Iceland's response that someone could recant a confession and state in court that such confession had been unlawfully obtained, clearly indicated that the burden of proof was on the accused seeking to recant, rather than the other way round. Indeed, the burden should be on the prosecution to show that the confession or other information had not been obtained by improper means, but was a statement given freely. In that regard, he wondered whether the delegation could provide any information relating to the investigation and prosecution of law enforcement personnel in relation to the use of procedures that would be incompatible with article 7 of the Covenant.

24. **Mr. Wieruszewski** commended the State party on the quality of its report, which had been prepared in accordance with the Committee's guidelines. However, it needed to update its core document (HRI/CORE/1/Add.26). He wondered why no information had been received from any non-governmental organizations during the current reporting period. Noting that women received 70 per cent of men's wages, he said that the measures taken to

close the gender pay gap were not as effective as could have been expected. Why were women still underrepresented in elected office, senior positions, academia and the diplomatic services, among others? In that regard, he would appreciate more information about the implementation of the new Act on Birth Vacations and Parental Vacations, which could be replicated in other countries.

25. It would be appreciated if the delegation could provide data on complaints filed by victims of discrimination and the action taken thereon. What action was being taken to make restraining orders more effective in order to provide better protection for victims of domestic violence? He would welcome more details on Iceland's national action plan against trafficking in human beings. The delegation should also indicate whether the organizations that offered assistance to victims of trafficking and sexual offences had sufficient funding for their tasks.

26. **Mr. Solari Yrigoyen** asked whether Iceland had had any thought to lift the remaining reservations it had imposed on its accession to the Covenant. He would also like to know whether any progress had been made on the plan by the Ministry of Justice to incorporate the provisions of the Covenant into domestic law mentioned in the 1988 report. He appreciated the delegation's candidness in discussing persistent gender-linked differences in pay and the small number of women in high posts in business and academia, and hoped more progress on that front would be announced in the next report. More information would be welcome on why relatively light sentences were imposed in cases of sexual violence and rape. He asked why there were restrictions on appeals against sentences for minor crimes; appeals in such cases, but not in more serious ones, apparently required authorization by a higher court, which would seem to diminish the right of appeal. He was also concerned about the fact that judges could freely evaluate whether a confession had been given freely, as there was no legislation governing that review. With regard to article 10 of the Covenant, he asked whether there had been cases of violence against and among detainees and what the causes of such violence were.

27. **Mr. Kälin** said he shared Mr. Lallah's concern about a possibly excessively broad definition of terrorism and Sir Nigel's concern about the lack of institutional separation of adult and juvenile detainees, which also was the subject of Iceland's reservation to article 10, paragraph 2, of the Covenant. In view of the very small number of juvenile detainees, it would not be difficult to establish some sort of separate facility, which would allow Iceland to lift that reservation. With regard to question 5 and the allegedly high incidence of rape, he pointed out that the small number of prosecutions relative to the number of cases reported seemed to send the message to women that the Government was unable or unwilling to protect them.

28. **Mr. Amor** said he shared Mr. Lallah's concern about a definition of terrorism that was too vague and could, therefore, support prosecutions of a wide variety of activities that were merely public expressions of opinion. He asked for details of how the many international human rights instruments that Iceland had ratified worked together with its Constitution and domestic legislation. Not all the protections in the Covenant were covered by the Icelandic Constitution and domestic legislation. Furthermore, did international obligations prevail over domestic laws, as the Vienna Convention on the Law of Treaties required? Finally, he expressed his particular concern about Iceland's reservation with regard to article 20 of the Covenant. In that connection he drew the delegation's attention to the Committee's general comment No. 11 on article 20 and general comment No. 29 on derogations during a state of emergency. The Icelandic authorities charged with decisions and reviews regarding international human rights instruments should review their criteria and Iceland's position with regard to the several outstanding reservations in the light of those general comments.

29. **Mr. Bhagwati** expressed concern about the safeguards and procedures for admitting confessions. The burden was now on the accused to show that his confession had not been freely given, but there were so many ways to coerce a detainee into confessing. Confessions made before the police alone, in particular, needed very careful examination. He also shared the concern of other members with regard to Iceland's reservations on article 10 and the treatment of juvenile detainees. The number of such detainees was so small that the State party could surely comply with the article and lift its reservation. Noting the reference in paragraph 52 of the report to a new Act on the Protection of Children and to an amendment to the Police Act, both strengthening protections afforded children, he asked how many cases had been brought under the new legislation. With reference to

paragraph 80 of the report, he asked how the rights and duties of judges had been changed and whether they had security of tenure. He requested more information on the new Judicial Council and its composition. How were Supreme Court judges appointed, did they have security of tenure and how could they be removed?

The meeting rose at 12.45 p.m.

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International Covenant on Civil and Political Rights

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Human Rights Committee
Eighty-third session

Summary record of the 2259th meeting
Held at Headquarters, New York, on Wednesday, 16 March 2005, at 3 p.m.

Chairperson: Ms. Chanet

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fourth periodic report of Iceland (*continued*)

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05-27206 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fourth periodic report of Iceland (*continued*) (CCPR/C/83/L/ISL; CCPR/C/ISL/2004/4; HRI/CORE/1/Add.26)

1. **The Chairperson** invited the delegation to respond to the oral questions put at the previous meeting by members of the Committee in connection with articles 2, 3 and 26, 8, 7, 10 and 14 of the Covenant (questions 1 through 9 of the list of issues (CCPR/C/83/L/ISL)).

2. **Ms. Árnadóttir** (Iceland) said that both the Human Rights Centre, run and partly financed by several non-governmental organizations, and the Human Rights Institute, run by the National University and partly financed from non-governmental sources, received government funding earmarked for human rights issues in the budget approved by Parliament, and that the funds were now allocated to them by the Ministries of Justice and Foreign Affairs.

3. The delegation was under the impression that the Committee had indeed received comments from Icelandic non-governmental organizations, given the references to them in its list of issues. Generally speaking, there were good relations between the Government and non-governmental organizations.

4. The core document (HRI/CORE/1/Add.26) definitely needed updating and the revision in progress should be complete by fall 2005.

5. **Ms. Ragnarsdóttir** (Iceland) said that the Public Announcements by the Ministry of Foreign Affairs, by which all Security Council resolutions were implemented in Iceland, had a legal basis in Act No. 5/1965 which established that procedure and also made any violation of a Public Announcement a criminal offence. Furthermore, the relevant provisions of the Covenant had been taken into account in the drafting of Act No. 99/2002, which had amended the General Penal Code to incorporate the substance of Security Council resolution No. 1373 (2001) on terrorism. The amendment of the Code had not aroused much public debate. Since under the Constitution (art. 69), there could be no punishment of a crime unless it was defined as such under the law, the Act defined a terrorist act as one intended to cause public fear and unrest; to illegally force public authorities to act or refrain from acting; and to cause serious harm to a State or international organization. Terrorist acts must also involve one of the violent and dangerous crimes specified in the Act. That provision in no way applied to peaceful demonstrations or even unruly demonstrations, for the right to demonstrate was strongly safeguarded by the Constitution and the Supreme Court.

6. The Government was certainly very concerned about the 15 per cent wage gap between men and women, and the hope was that the Maternity/Paternity Leave and Parental Leave Act No. 95/2000 discussed in the report should help equalize the situation — indeed, since its passage, 80 per cent of fathers had been taking leave — as should the fact that women constituted the majority of university students, thus preparing them for responsible posts in the future. Parliament had since 1992 tried to close the wage gap by adopting four-year action programmes for gender equality, and as a result, the number of women in the police force and prison management and in political office had risen by 8 to 10 per cent. Moreover, the conclusions of a committee report on ways of supporting women in business were being studied by the Ministry of Industry and Commerce. Also, over 1,000 women had participated in a special job creation project for women in 2000-2002, which had created over 200 new jobs.

7. Icelandic law did not permit extradition if the person would, in the country of destination, be subject to a death sentence, to torture or inhuman treatment, or to injustice or persecution for racial, religious or political reasons.

8. **Ms. Árnadóttir** (Iceland) said the Government believed that its procedures for the use of restraining orders to reduce domestic violence did not need to be simplified to make them more effective. She acknowledged that some victims had criticized the police for not requesting restraining orders often enough.

9. The Ministry of Justice and the Ministry of Social Affairs were working on a national action plan against trafficking in women. All non-governmental organizations supporting victims of violence and sexual abuse, such as the Women's Sanctuary, the

Centre for Sexual Abuse Victims and the Emergency Reception facility of the National University Hospital, received public funding.

10. **Ms. Ragnarsdóttir** (Iceland) said that, indeed, the statistical table provided in the Government's written responses to question 5 or the list of issues showed that many rape cases had not been prosecuted, generally because the Director of Public Prosecutions, on whom the burden of proof rested, lacked sufficient evidence. However, as indicated at the previous meeting, many measures were in place to help rape victims, in cooperation with the police. Under chapter VII of the Code of Criminal Procedure, the victims of sexual crimes were guaranteed free legal representation in all cases and could claim compensation during the court proceedings against the perpetrator.

11. **Ms. Árnadóttir** (Iceland) said that all claims of torture were investigated immediately and, once again the prosecutor bore the burden of proof. No further cases of harsh treatment had been reported, beyond the one described at the previous meeting. In Iceland, information or confessions obtained by torture or cruelty could never be admitted into evidence in legal proceedings, and persons could not be convicted of a crime based only on their confessions to the police.

12. There had indeed been instances of violence, both mental and physical, among prison detainees, but all such cases had been investigated and punished and one case had led to a conviction. It was not practical to set up separate institutions to detain juvenile offenders because they were so few: perhaps one a year was sentenced to prison, and would not benefit from being kept alone in separate detention. The European Council itself was no longer so adamant about the separation of adult and juvenile offenders.

13. Iceland had no plans to lift its reservations to article 20 of the Covenant so long as the reasons behind the reservation were still valid.

14. The Government believed that its Constitution already contained many of the provisions of the Covenant and, in any case, all the Covenant provisions were directly enforceable by law. The international human rights instruments had played an unexpectedly important role in the Icelandic legal order, for they had proved to have an influence on court interpretations of domestic law that could not have been foreseen.

15. **Ms. Ragnarsdóttir** (Iceland) said that all cases involving prison sentences, no matter how minor, could be appealed. According to the Code of Criminal Procedure, cases involving penalties other than imprisonment could be appealed only with Supreme Court permission, which was granted in special circumstances such as the use of evidence seen to be unreliable.

16. Act No. 15/1998 on the Judiciary set out the eligibility requirements for the nine Supreme Court justices appointed for an indefinite term, and the general rights and duties of judges, who must act independently and strictly according to the law and avoid conflicts of interest. The Act also regulated the functions of the Judicial Council, a largely administrative body composed of five members appointed by the Minister of Justice, which oversaw the financial affairs of the district courts, ruled on judicial assignments and transfers, and issued binding rules on judicial practice.

17. **Mr. Ando** asked if any independent body reviewed a prosecutor's decision not to prosecute a sexual crime.

18. **Mr. Kälin** observed that rape cases dismissed for lack of evidence nonetheless presumably involved a known suspect. Also, it was not clear to him why the single juvenile offender per year held in the prison system could not, like most convicts his age, serve his sentence at a facility run by the Child Welfare Office.

19. **Mr. Solari Yrigoyen** asked if it was true that overly lenient sentences were imposed for sexual crimes.

20. **Ms. Ragnarsdóttir** (Iceland) said that a public prosecutor's decision not to prosecute could be appealed by the individual concerned to the Ministry of Justice.

21. **Ms. Árnadóttir** (Iceland) said that sending a single juvenile offender to one of the smaller prisons rather than to a Child Welfare Office facility could often be a practical matter in such a large country as Iceland, and that the offenders themselves could request it.

22. **Ms. Ragnarsdóttir** (Iceland) said that the Government did not believe that overly lenient sentences were imposed for sexual crimes; article 194 of the General Penal Code stipulated imprisonment of 1 to 16 years for forced sexual intercourse or other

sexual intimacy, and article 195 imposed prison sentences of up to six years for other types of sexual crimes.

23. **Ms. Árnadóttir** (Iceland), referring to a comment made at a previous meeting concerning the timely submission of documents, said she regretted that Iceland's written replies had not been submitted earlier. She wondered whether the delegation should read out their replies in greater detail.

24. **The Chairperson** said that the late submission of documents had implications for the Committee's work, as it was difficult to have a proper debate unless documentation was available in all relevant official languages. She would appreciate it if the delegation could read out their replies in greater detail now that interpretation was provided.

25. She invited the delegation to address questions 10 to 18 on the list of issues.

Right to privacy (article 17 of the Covenant)

26. **Ms. Ragnarsdóttir** (Iceland), referring to question 10, said that the main role of the Data Protection Authority was to monitor the processing of data regarded as personal under the Act on the Protection of Privacy. The Authority arbitrated disputes, considered individual cases, handled applications for permits, analysed general trends in personal data protection, at both the national and international levels, and generally kept abreast of developments in that field. The Authority requested data for its own use only where it was needed to consider individual cases. Under article 28 of the Act, objections could be lodged against processing personal data that was incorrect, misleading, incomplete or had been registered without proper authorization. In such cases, appropriate corrections would be made, and the data would be deleted when it was no longer relevant. The Data Protection Authority also ruled in cases where a subject's request to have data erased was not honoured by the controller.

27. Referring to question 11, she said that the national health databank would have to provide legal justification for its operation, clearer definitions of its functions and assurances that information would not be traceable to individual persons. Pending thorough-going revisions to Act No. 138/1998, the databank remained inactive.

Freedom of conscience and religious belief (article 18 of the Covenant)

28. **Ms. Ragnarsdóttir** (Iceland), referring to question 12, said that while Christian studies, ethics and religion were a compulsory subject under the Icelandic Primary School Act, there had been no instances of discrimination against children who did not attend those classes. Schools were advised to take into account the increasing number of immigrant children in Iceland, to work with the families of those children in order to arrange for education in their own religions and cultures, and to make the most of the opportunities presented by diverse student bodies in order to promote increased understanding, mutual respect and tolerance. As a guarantee of the freedom of religion, individual pupils could be granted exemptions from certain compulsory subjects without any difficulty.

Rights to freedom of movement, privacy, opinion and peaceful assembly (articles 12, 17, 19 and 21 of the Covenant)

29. **Ms. Árnadóttir** (Iceland), referring to question 13, said that while the Icelandic authorities had decided to limit the number of individuals who could enter the country to participate in a planned protest during the visit of the President of the People's Republic of China, the demonstration had been neither prevented nor prohibited. In talks with Falun Gong members who had arrived in Iceland the week before the visit, Icelandic authorities had learned that some members did not intend to comply with police instructions to stay in defined protest areas. They had also learned from police sources elsewhere in Europe that, even in peaceful demonstrations, Falun Gong members had been known to push or rush through police lines. As the Icelandic police force was small and the participation of hundreds of foreigners in the planned protest could pose a risk to public safety, the Government had taken measures in accordance with their obligation under international law to ensure the security of foreign heads of State. The measures taken had not been aimed at limiting freedom of expression or preventing peaceful protests but rather, as the Ombudsman had concluded to ensure protection of the public by a relatively small law enforcement community. Thus, the Ministry of Justice had forwarded to Icelandair a list of Falun Gong members who had booked flights to Iceland but could be

expected to be denied entry into the country. The list had also been sent to Icelandic embassies in the United States of America, Norway, Denmark, the United Kingdom and France, so that the individuals concerned could be informed of the decision of the Icelandic authorities and assistance could be provided to them. After the visit, Icelandic authorities had destroyed all but one copy of the list of banned Falun Gong members.

30. Referring to question 14, she said that the description it contained of the incident involving anti-NATO protestors during a public celebration of Iceland's national day was not entirely correct. Although several individuals had been removed from the celebration area, they had been allowed to continue demonstrating elsewhere. Only one individual, who was intoxicated, had been taken to the police station. She referred to the Supreme Court's judgement of 1999 that particularly strict demands must be made with regard to the clarity and unambiguity of statute provisions limiting the right to public protest. The protestors had been asked to leave for the simple reason that no measures were in place to protect the Government in the area mentioned.

The right to democratic elections and conduct of public affairs (articles 25 and 26 of the Covenant)

31. **Ms. Árnadóttir** (Iceland), referring to question 15, stressed that all foreign nationals had the right to vote and stand for office in municipal elections provided that they fulfilled certain conditions. She nonetheless acknowledged that citizens of the Nordic countries did indeed benefit from preferential treatment. The reasons for such treatment were historical. Giving preferential treatment to citizens of neighbouring countries or countries with which there were strong ties was a well-known phenomenon in Europe and the rest of the world. Iceland had such ties with the Nordic countries, with which it shared a common culture and heritage and a long history of cooperation.

32. As to question 16, the Government's written replies explained in detail the system of appointments to the Supreme Court. In particular, before a person could be commissioned to judicial office, the Minister of Justice must seek the Supreme Court's opinion regarding the competency and qualifications of the applicant. Any applicant who, in the opinion of the Court, did not meet certain requirements could not be instituted in office.

33. As for the allegations that recent appointments had disregarded the opinion of the Ombudsman, she provided further details of the case concerning the appointment of a Supreme Court judge in 2003. Following a complaint by three of the eight applicants, the Ombudsman had found that the Minister of Justice had not complied with the Act on the Judiciary — since he had not sought the Supreme Court's opinion about the applicants' knowledge of a particular field of law, namely European law — and had violated the investigation rule of the Administrative Act. The Minister of Justice had subsequently stated before Parliament that, although he did not share the Ombudsman's interpretation of the Act on the Judiciary, he would consider the Ombudsman's findings closely. With that in mind, he had sought the Supreme Court's opinion twice when preparing a proposal for the appointment of a Supreme Court judge in October 2004.

The right to equality before the law (article 26 of the Covenant)

34. **Ms. Ragnarsdóttir** (Iceland), referring to question 17, said that under article 65 of the Constitution all persons were equal before the law. Foreign workers therefore had the same rights as Icelanders to work, education, social and medical services, the minimum wage, trade union membership, housing, and so on. She specified, however, that foreign workers were entitled to health care once they had been resident in Iceland for six months and that, if they were employed, their employer was responsible for their insurance under the Social Security Act. Special institutions had been established to improve relations between Icelanders and foreign nationals who intended to settle in Iceland and to help the latter become more familiar with Icelandic society and culture. She drew attention to a survey conducted in 2004 among foreign workers in Iceland from outside the European Economic Area, the results of which were detailed in the Government's written replies. Essentially, foreign workers suffered from very low levels of unemployment and considered their salaries to be on a par with those of their co-workers.

Rights of minorities (article 27 of the Covenant)

35. **Ms. Ragnarsdóttir** (Iceland), referring to question 18, said that there had been very few incidents of discrimination or expressions of xenophobia towards foreigners in Iceland. She referred to the case mentioned in paragraphs 107 and 108 of the report concerning the vice-chairman of an Association of Icelandic Nationalists who had been found guilty, under article 233 (a) of the General Penal Code, of publicly assaulting a group of people by derision, vilification and mockery on account of their nationality, colour and race. The case demonstrated that the Icelandic authorities took discrimination very seriously and were determined to punish anyone found guilty in that regard.

36. As for measures taken by the authorities, she said that provisions had been introduced into domestic law concerning prohibition of discrimination and equality before the law and drew attention, in particular, to article 65 of the Constitution, article 11 of the 1993 Administrative Procedures Act and articles 180 and 233 (a) of the General Penal Code. Under article 233 (a), anyone found guilty of publicly attacking a person or group of persons on the grounds mentioned was liable to a fine or imprisonment of up to two years. She also referred to article 1 of the 1997 Rights of Patients Act, which prohibited discrimination in the provision of health care.

37. In 2001 the Government had established the office of police ombudsman; the ombudsman acted as a link between the police and persons of foreign origin, providing the latter with such information as they required and, where necessary, referring them to the proper authority. The ombudsman worked in close cooperation with the International House in Reykjavík.

38. **Mr. Amor**, referring to article 18 of the Covenant, said that the existence of a National Church was acceptable under international law and did not in itself imply discrimination against other religions or beliefs. He was nonetheless concerned at the stipulation in law that in order to be registered, religious associations must practise faiths or beliefs linked to religions with historical or cultural roots, as that might result in discrimination against newer religious communities without such links.

39. He was also concerned at Iceland's attitude towards the Falun Gong. While the State clearly had a responsibility to ensure public order, such concerns should not lead to discrimination against groups with different beliefs. Moreover, while the Falun Gong must of course obey the law once inside the country, Iceland could not simply assume that they would disrupt the peace before they had even arrived.

40. The most worrying factor, in his view, was that the list of Falun Gong members had been circulated. No State could judge a person's beliefs provided that they manifested those beliefs in a legal manner. While he did not seek to defend any particular group, both article 18 and the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief must be respected. In his view, Iceland's response to the Falun Gong incident was an upsetting precedent.

41. **Mr. Wieruszewski** said that, while article 26 of the Covenant did not prohibit preferential treatment as such, he was concerned that the Committee might find itself in a predicament should a citizen of another nationality lodge a complaint on the grounds of unfair treatment and incompatibility with article 26. While he appreciated the historical reasons behind the provision relating to preferential treatment for citizens of Nordic countries, he wondered whether Iceland was considering removing it.

42. **Mr. Solari Yrigoyen** said that he would appreciate further information concerning the punishment given to the vice-chairman of the nationalist association found guilty of inciting racial hatred, the aims of that association, any measures taken against it and the existence of any other similar associations.

43. **Ms. Árnadóttir** (Iceland) said that freedom of religion had not been at issue in the Falun Gong case but rather the maintenance of public order by a small police force that was not backed up by an army or military reserve force. The Icelandic authorities had believed they were minimizing the harmful consequences of their decision by instructing Icelandair to warn certain Falun Gong members that they would be denied entry into the country and that there was no point in purchasing an airline ticket.

44. **Ms. Ragnarsdóttir** (Iceland) said that a penalty of 100,000 Icelandic kronúr ($2,000) had been imposed on the racist group under article 233 (a) of the General Penal Code. Since the judgement, nothing had been heard of the group, which was no longer active and no

longer maintained a website. To her knowledge, similar groups did not exist in Iceland.

45. **The Chairperson**, summing up the discussion, welcomed the State party's elimination of distinctions between children born in and out of wedlock, and its introduction of legislation to shift the burden of proof to employers in cases of alleged wage disparities between men and women. However, since the presentation of the State party's third periodic report, not much progress had been achieved in fully incorporating the provisions of the Covenant into domestic law. The Covenant must be a respected and free-standing international instrument in the eyes of Icelandic society, one which could be invoked without necessarily being associated with the European Convention on Human Rights.

46. She also requested clarification on a number of reservations to articles of the Covenant. In presenting its third periodic report, for example, the Icelandic delegation had indicated that it had lifted its reservation to article 13, and yet as recently as the year before, the reservation had still been on record. Furthermore, it was not clear why the State party was clinging to its reservation to article 10, which concerned only an insignificant number of minors. She would also appreciate an explanation of the State party's intentions with regard to its reservation to article 20.

47. While she understood that Iceland's legal system did not lend itself to the adoption of legislation prohibiting the use of evidence extracted by torture, the role of the judge in rejecting such evidence should have been more clearly explained in the responses to the list of issues. She questioned the inclusion of roadblocks in the State party's definition of terrorism; for example, farmers who staged roadblock protests, at times resulting in harm to life or property, could hardly be called terrorists. Lastly, she believed that the failure to prosecute rape cases for lack of evidence was an old-fashioned approach in an era when the expertise of specially trained police officers, judges, doctors and psychologists could be pieced together to make a case against perpetrators. She saw little justification for the reluctance to prosecute rape cases without overwhelming proof; while convictions should be absolutely doubt-free, traces of doubt should never impede prosecution.

48. **Mr. Hannesson** (Iceland), in closing, noted that Iceland had evolved from a small, close-knit and homogeneous society into a one with an immigrant population that was now confronting and coming to terms with huge changes.

The meeting rose at 4.50 p.m.